



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,498	03/08/2002	Thomas W. Krause	2002-0308-NCPY	1270

35197 7590 09/24/2007
PHILIP R KRAUSE
9437 SEVEN LOCKS RD
BETHESDA, MD 20817

EXAMINER

WRIGHT, JAMES B

ART UNIT	PAPER NUMBER
----------	--------------

3693

MAIL DATE	DELIVERY MODE
-----------	---------------

09/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/092,498	Applicant(s) KRAUSE ET AL.	
	Examiner J. Bradley Wright	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

1. The examiner for this application has changed. Please indicate Examiner J. Bradley Wright as the examiner of record in all future correspondences.

Election/Restrictions

2. Applicant's election without traverse of Invention I in the reply filed on June 10, 2007 is acknowledged.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 114, 130 and 132 in Figure 1; and 609 in Figure 6.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The application appears to have been filed without all of the drawing figure(s) referred to in the specification, and a Notice of Omitted Items has not been mailed by the OIPE. In particular, the specification refers to a Figure 8 in the Brief Description of the Drawing (paragraph 0042) and further describes a Figure 8 in the Detailed Description of the Embodiments (paragraphs 0150-0156)

The Examiner has determined that the application is entitled to a filing date, and, therefore, pursuant to MPEP § 601.01(g), the applicant must do one of the following regarding the missing figure:

(A) accept the application, as filed, without all of the drawing figure(s) referred to in the specification;

(B) file any omitted drawing figure(s) with an oath or declaration in compliance with 37 CFR 1.63 and 37 CFR 1.64 referring to the omitted drawing figure(s) and a petition under 37 CFR 1.182 with the petition fee set forth in 37 CFR 1.17(f), requesting the date of submission of the omitted drawing figure(s) as the application filing date; or

(C) file a petition under 37 CFR 1.53(e) with the petition fee set forth in 37 CFR 1.17(f) alleging that the drawing figure(s) indicated as omitted was in fact deposited with the USPTO with the application papers, including any and all evidence supporting the allegation. See MPEP § 503. The petition fee will be refunded if it is determined that the

Art Unit: 3693

drawing figure(s) was in fact received by the USPTO with the application papers deposited on filing.

If applicant is willing to accept the application, as filed, without all of the drawing figure(s) referred to in the application (item A above), applicant is required to submit (1) an amendment to the specification canceling all references to the omitted drawing figure(s) including any reference numerals shown only in the omitted drawing figure(s), (2) an amendment with replacement sheets of drawings in compliance with 37 CFR 1.121(d) renumbering the drawing figure(s) submitted on filing consecutively, and (3) a further amendment to the specification correcting references to drawing figure(s) to correspond with the relabeled drawing figure(s), both in the brief and detailed descriptions of the drawings. The amendment should be submitted in response to the Office action.

If an application was filed on or after September 21, 2004, and contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application that was present on the filing date of the application, and the omitted portion of the drawing(s) was inadvertently omitted from the application and is completely contained in the prior-filed application, applicant may submit an amendment to include the inadvertently omitted portion of the drawing(s) pursuant to 37 CFR 1.57(a). The amendment should be submitted in response to the Office action and must comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17.

Art Unit: 3693

Any petition filed in accordance with item (B) or (C) above should be filed with the TC. The TC will match the petition with the application file and forward the application file with the petition to the Office of Petitions, along with a brief explanation as to the drawing figure(s) that has been omitted on filing, for consideration of the petition in due course.

Specification

5. The disclosure is objected to because of the following informalities:

- Line 4 of paragraph 0083 refers to “web-site 309”. However, the web-site is previously referred to by reference number 307 in the same paragraph and in Figure 3.
- Line 4 of paragraph 0083 refers to “Provider 311”. However, reference number 309 in Figure 3 refers to the provider, and reference number 311 is used to refer to the content and rights later in the same paragraph and in Figure 3.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-2, 6, 8-14, and 17-20 are rejected under 35 U.S.C. 102(a) as being anticipated by www.Bounty.org (hereinafter “Bounty”).

Examiner notes the use of the "The WayBack Machine" at www.archive.org for this Office Action. The Internet Archive is a comprehensive library of Internet sites and other cultural artifacts in digital form. The Wayback Machine is a free service allowing people to access and use archived versions of past web pages within the Internet Archive. Visitors to the Wayback Machine can type in a URL, select a date range, and then will be able to search and view the Internet Archive's enormous collection of web sites, dating back to 1996 and comprising over 10 billion web pages. In this case the Examiner found an archived version of www.bounty.org/proposals/proposal1.html from October 17, 2000 with a description of a proposed system for awarding cash payments for the creation of new technologies, such as "copylefted" software.

7. **Regarding claims 1, 17 and 18**, Bounty discloses a method and computer system for awarding cash payments for the creation of new technologies (see Abstract and Background), including:

- Identifying a cause (the first paragraph under the heading "The proposal:"; the first two paragraphs under the heading "To get more specific:"; and the section "Writing the bounty:").
- Identifying an entity capable of performing an action related to the cause, and identifying a price for the action (the second paragraph under the heading "The proposal:", and the fourth paragraph under the heading "To get more specific:"). The Examiner notes that the system disclosed in Bounty uses market forces to identify the

entity capable of providing desired software and to identify the ultimate price to be paid to the developer for creating and delivering the desired software.

- Specifying, via a computer system, a deadline for receiving pledges earmarked for the cause (the second paragraph under the heading "The proposal:" and the third and fourth paragraphs under the heading "To get more specific:"). The Examiner notes that in this instance the deadline for receiving bids would be when a developer uploads the developed software and the bounty is awarded. The Examiner further notes that Bounty discloses contingency plans for unclaimed, unmet, or expired bounties (item 6 under "Writing the bounty:" and the second paragraph under "Adding to the bounty:").

- Receiving, via a computer system, before the deadline, a plurality of pledges of value units earmarked for the cause (the second paragraph under the heading "The proposal:" and the third and fourth paragraphs under the heading "To get more specific:").

- Providing consideration to the entity in exchange for performance of the action, where the consideration comprises value units pledged in step e (the second paragraph under the heading "The proposal:" and the third and fourth paragraphs under the heading "To get more specific:").

8. **Regarding claims 2 and 19**, Bounty further discloses entering an agreement with the entity, the agreement containing a condition such that, if the condition is met, the entity agrees to take the action (see "Writing the bounty:"). The Examiner notes that the bounty specification include several conditions laid out by the initiator of the bounty,

to which the developer inherently agrees by developing and submitting software in response to the posted bounty to collect the money.

9. **Regarding claim 6**, Bounty further discloses that the total amount of contributions from the contributors equals the amount of the bounty (the second paragraph under the heading "The proposal:", and the third and fourth paragraphs under the heading "To get more specific:").

10. **Regarding claims 8-14 and 20**, Bounty further discloses that the entity is the holder of an intellectual property right, the cause is the extinguishment or renunciation of the intellectual property right, and that the intellectual property right may be a copyright right, including the right of electronic distribution of a copyrighted work, the right to reproduce a copyrighted work, and the right to make a derivative work of a copyrighted work, as well as that the extinguishment of the intellectual property right may be effectuated by transferring the intellectual property right to a second entity, which has represented that it will not enforce the intellectual property right (see Abstract; Background; the third paragraph under "The proposal: "; the fourth paragraph under "To get more specific: "; and item 5 of "Writing the bounty: ").

The Examiner notes that the developer accrues certain intellectual property rights by developing new software, such as copyrights, to which the developer extinguishes or renounces at least a portion of those rights by agreeing to let the developed software be "copylefted". The Examiner further notes that "copyleft" is a well-known form of

Art Unit: 3693

licensing that may be used to modify copyrights for a variety of works, including computer software, documents, music, and art. Under current law, rights under copyright law permit the author of a work to prohibit others from reproducing, adapting, or distributing copies of the author's work. However, copyleft allows the copyright holder to give those who receive a copy of the protected work permission to reproduce, adapt or distribute the work as long as any resulting copies or adaptations are also bound by the same copyleft agreement. The GNU General Public License is a commonly used copyleft license that generally covers rights under copyright including the distribution and reproduction of copyrighted works, as well as the creation of derivative works.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3-5, 7, 10 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bounty.org (hereinafter "Bounty").

12. **Regarding claims 3 and 4**, as noted above, Bounty discloses that the posted bounties may expire. However, Bounty does not explicitly disclose that the agreement

Art Unit: 3693

is entered prior to receipt of pledges, and that the agreement specifies a time limitation, such as a deadline, related to payment of the price. The Examiner takes Official Notice that it was old and well-known in the art at the time the invention was made to include a time limitation, such as a deadline, within an agreement for the purposes of ensuring that performance under the agreement is accomplished in timely manner consistent with the goals of the parties to the agreement. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bounty specifications of Bounty to include a specific time limitation for providing the requested software, in order to ensure the initiator of the bounty received the desired software in a timely manner, as was old and well-known.

13. **Regarding claim 5**, Bounty further discloses that a plurality of pledges are made by at least one bidder (the second paragraph under "The proposal:", and the third paragraph under "To get more specific:"). However, Bounty does not explicitly disclose that the bidder may set an expiration time for his pledge. The Examiner takes Official Notice that it was old and well-known in the art at the time the invention was made for a bidder to include an expiration time on a bid, for the purpose of providing predictability for the bidder regarding outstanding potential financial obligations. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to permit the contributors to the bounty in Bounty to set times for their pledges to expire, in order to permit the contributors of predictably forecast their financial obligations, as was old and well-known.

14. **Regarding claim 7**, Bounty does not explicitly disclose that a bidder's pledge results in a transfer of value units from the bidder if the condition is met prior to expiration of the pledge. The Examiner takes Official Notice that it was old and well-known in the art at the time the invention was made to utilize only valid bids in an auction or similar system, for the purpose of ensuring the integrity of the auction. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bounty to ensure that only valid pledges from contributors were included in the bounty, in order to ensure the integrity of the bounty system by providing the developer with the posted bounty, as was old and well-known.

15. **Regarding claims 15 and 16**, as noted above, Bounty discloses a method and computer system for awarding cash payments for the creation of new technologies (see Abstract and Background). However, while Bounty explicitly discloses the creation of software and addresses the copyright issues, Bounty does not explicitly disclose that the intellectual property right may be a patent right, such the right to manufacture a product. The Examiner takes Official notice that it was old and well-known in the art at the time the invention was made that new technologies, in particular software, may be covered by a wide-range of intellectual properties, including copyrights and patents, for the purpose of promoting the useful arts and sciences by providing specified rights and protections to the innovator. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bounty to

include or address the disposition of the patent rights related to any software developed and submitted, in order to further promote subsequent distribution free from lingering intellectual property claims.

Conclusion

16. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Miyashita (US Patent Application Publication No. 2001/0014876) discloses a network system, auction server, digital content distributing system, and digital content distributing method.

- Waldeyer (US Patent Application Publication No. 2002/0143625) discloses a method for raising funds.

- Lawrence, et al. (US Patent Application Publication No. 2002/0116215) discloses a method and system for administering an on-line fund-raising event.

- Costin IV, et al. (US Patent Application Publication No. 2002/0049816) discloses a system and method for raising funds and establishing user affinity over a distributed network.

- Malackowski, et al. (US Patent Application Publication No. 2002/0138384) discloses a system for and method of risk minimization and enhanced returns in an intellectual capital based venture investment.

- Kaufman (US Patent No. 7,062,457) discloses a method and system for entertainment production financing.

- Wilk (US Patent No. 6,973,439) discloses a computer network mediated financing method.
- Hagelin (US Patent No. 7,188,069) discloses a method for valuing intellectual property.
- Kossovsky, et al. (US Patent Application Publication No. 2002/0002523) discloses an online patent and license exchange.
- Vlahoplus, et al. (US Patent No. 7,130,825) discloses an electronic ownership control system and method.
- Brown (US Patent No. 5,794,219) discloses a method of conducting an on-line auction with bid pooling.

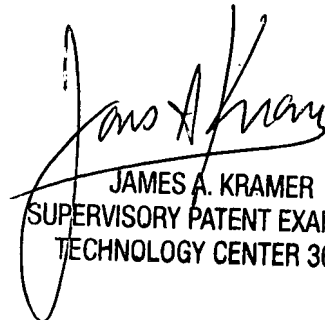
17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bradley Wright whose telephone number is (571) 272-5872. The examiner can normally be reached on M - F 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3693

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jbw

 9-19-07
JAMES A. KRAMER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600